

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

TRISURA SPECIALTY INSURANCE  
COMPANY

Plaintiff

VS.

ASPIRE FERTILITY INSTITUTE, INC.

Defendant

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 4:24-cv-3915

**PLAINTIFF'S ORIGINAL COMPLAINT FOR DECLARATORY JUDGMENT**

TO THE HONORABLE JUDGE OF THIS COURT:

COMES NOW, Plaintiff Trisura Specialty Insurance Company (“Plaintiff” or “Trisura”), and files this Original Complaint seeking a declaratory judgment regarding the rights, status, and other legal relations between Trisura and Defendant Aspire Fertility Institute, Inc. (“Defendant” or “Aspire”). Trisura respectfully shows the Court as follows.

**I. BRIEF FACTUAL BACKGROUND**

1. This case involves an insurance coverage dispute.
2. Trisura issued Healthcare Liability Policy 24A1323 (“the Policy”) to Aspire and other scheduled insureds. The Policy became effective August 14, 2024, and has policy limits of \$1,000,000 per event and \$3,000,000 in the aggregate.
3. Aspire has been sued by several plaintiffs (“the underlying plaintiffs”) in a state court lawsuit (“the underlying lawsuit”) that is currently pending in Harris County, Texas. Specifically, the underlying lawsuit is Cause No. 2024-63104: *Nicole Alarcon, et al. v. Aspire Fertility Institute, Inc., et al.*, currently pending in the 281st Judicial District Court of Harris County, Texas.

4. The underlying plaintiffs have mis-named as a defendant in the underlying lawsuit an alleged entity referred to as “Aspire Houston Fertility Institute, a corporation.” Trisura reserves the right to amend this declaratory judgment complaint and to add as a defendant any additional insured that is subsequently named as a defendant in the underlying lawsuit.

5. Trisura respectfully requests that this Court enter a declaratory judgment regarding the rights, status, and other legal relations of the parties to the Policy.

## **II. PARTIES**

6. Trisura is incorporated in Oklahoma and has its principal place of business in Oklahoma; therefore, it is a citizen and resident of Oklahoma.

7. Based on information and belief, Aspire is incorporated in Texas and has its principal place of business in Texas; therefore, it is a citizen and resident of Texas. Aspire can be served with process through its registered agent for service of process: CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

## **III. JURISDICTION AND VENUE**

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a)(1). There is complete diversity of citizenship among the parties to this lawsuit, which is a civil action between citizens of different states in which the matter in controversy exceeds the sum or value of \$75,000 exclusive of interest and costs.

9. This Court has personal jurisdiction over Defendant because, on information and belief, it is a citizen and resident of Texas.

10. Additionally, the exercise of jurisdiction in Texas satisfies, and is consistent with, constitutional due process guarantees. Defendant has sufficient minimum contacts with Texas and the exercise of jurisdiction in Texas comports with, and does not offend, traditional notions

of fair play and substantial justice. Texas courts may exercise both general jurisdiction and specific jurisdiction based on Defendant's contacts, contracts, activities, and affiliations with and within the State of Texas.

11. Venue is proper in the Southern District of Texas, Houston Division pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to Trisura's claims occurred in this judicial district. For example, the underlying lawsuit is pending in state court in Harris County, Texas, which is located in this judicial district and division.

12. Based on information and belief, venue would also be proper in this district and division pursuant to 28 U.S.C. §§ 1391(b)(1) and 1391(d).

#### **IV. TRISURA'S REQUEST FOR DECLARATORY RELIEF**

13. Trisura files this declaratory judgment action pursuant to Chapter 37 of the Texas Civil Practice and Remedies Code, the Texas "Uniform Declaratory Judgments Act."

14. Texas Civil Practice and Remedies Code § 37.003(a) states that this Court "has power to declare rights, status, and other legal relations whether or not further relief is or could be claimed."

15. Texas Civil Practice and Remedies Code § 37.004(a) states that "A person interested under a ... written contract ... or whose rights, status, or other legal relations are affected by a ... contract ... may have determined any question of construction or validity arising under the ... contract ... and obtain a declaration of rights, status, or other legal relations thereunder."

16. Texas Civil Practice and Remedies Code § 37.009 states that "In any proceeding under this chapter, the court may award costs and reasonable and necessary attorney's fees as are equitable and just."

17. Trisura respectfully requests that this Court enter a declaratory judgment regarding the rights, status, and other legal relations of the parties to the Policy. Specifically, Trisura respectfully requests that this Court enter a declaratory judgment regarding (a) whether the Policy is subject to rescission, (b) whether the Policy provides coverage for the allegations against Aspire in the underlying lawsuit, (c) whether Trisura has a duty to defend Aspire (or anyone else) in the underlying lawsuit, and (d) whether Trisura has a duty to indemnify Aspire (or anyone else) for any settlement or judgment relating to the underlying lawsuit.

18. Trisura further respectfully requests that this Court enter judgment awarding Trisura its costs and reasonable and necessary attorney's fees.

WHEREFORE, PREMISES CONSIDERED, Trisura respectfully requests that Defendant be cited to appear and to answer, and that this Court enter judgment as set out above. Trisura also respectfully requests any other relief to which it may be entitled.

Respectfully submitted,

THE LITTLE LAW FIRM, P.C.

/s/ Joseph R. Little

Joseph R. Little  
State Bar No. 00784483  
440 Louisiana Street, Suite 900  
Houston, Texas 77002  
(713) 222-1368 - Telephone  
(281) 200-0115 - Facsimile  
jrl@littlelawtexas.com

Attorney in Charge for Plaintiff Trisura Specialty  
Insurance Company